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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,801	09/28/2001	Toshiro Tsuchida	P21330	2858
7055	7590	05/28/2004	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			ART UNIT	PAPER NUMBER

DATE MAILED: 05/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application No.

09/964,801

Applicant(s)

TSUCHIDA ET AL.

Examiner

C. Marks

Art Unit

3713

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 29 March 2004 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☒ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☒ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☒ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet


**MICHAEL O'NEILL
PRIMARY EXAMINER**

cmm


Continuation of 9. Other (including any explanation in support of the above items): The brief does not reference the specification by page and line number as well as reference characters when drawings are referenced in the summary statement. The brief attempts to make citations in some of the summary; however, there are a number of features summarized that have no citation as well as the fact that the Applicant used paragraph numbers to reference the specification when it is cited. The Applicant is required to use page and line number as it is not a proper reference by using paragraph numbers as other can not be expected to continually count paragraphs to guess where the Applicant is referring.

The grouping of claims is incorrect, as it does not distinctly group the claims. Each group should be numbered to clearly present the Applicant's definition of what claims fall in what group. The claims do not need to be defined as independent and dependent, only grouped. As per the Applicant's attempt at grouping, the claims should be defined as follows:

- Group 1: Claim 1 and 2-4 stand and fall together
- Group 2: Claim 7 does not stand or fall together and is separately patentable
- Group 3: Claim 8 does not stand or fall together and is separately patentable
- Group 4: Claim 9 does not stand or fall together and is separately patentable
- Group 5: Claim 10 does not stand or fall together and is separately patentable
- Group 6: Claims 18-21 stand or fall together
- Group 7: Claims 25-28 stand or fall together
- Group 8: Claim 32-36 stand or fall together
- Group 9: Claims 46-49 stand or fall together
- Group 10: Claims 53-56 stand or fall together
- Group 11: Claim 24 does not stand or fall together and is separately patentable
- Group 12: Claim 31 does not stand or fall together and is separately patentable
- Group 13: Claim 38 does not stand or fall together and is separately patentable
- Group 14: Claim 52 does not stand or fall together and is separately patentable
- Group 15: Claim 46 does not stand or fall together and is separately patentable
- Group 16: Claim 59 does not stand or fall together and is separately patentable
- Group 17: Claim 60 does not stand or fall together and is separately patentable
- Group 18: Claim 61 does not stand or fall together and is separately patentable
- Group 19: Claim 62 does not stand or fall together and is separately patentable
- Group 20: Claim 63 does not stand or fall together and is separately patentable
- Group 21: Claim 64 does not stand or fall together and is separately patentable

Further, the Applicant's arguments are not coterminous with their groupings. The Applicant has grouped the claims as 21 separately patentable entities but only argue the rejection as a whole and do not address the alleged separate patentability of each group. The Applicant must present an argument for each group of claims that clearly shows why it is separately patentable as well as the fact that it overcomes the rejection. A broad argument as per the rejection does not satisfy the requirement of separate patentability. If the Applicant wishes to keep the claims grouped as above, they must present separate arguments for each grouping explaining why they are separately patentable and should provide a heading for each argument to clearly delineate it from the rest of the groups. For example: Why Claims 1 and 2-4 are not obvious over Why Claim 7 is not obvious over.... etc. covering all of the groups and when the groups are named as separately patentable also addressing why that is the case. Merely pointing out differences in what the claims cover is not sufficient to establish separate patentability. The arguments must show why the claims do not stand or fall together.